

BEFORE THE MONTANA DEPARTMENT  
OF LABOR AND INDUSTRY  
OFFICE OF ADMINISTRATIVE HEARINGS

IN RE OFFICE OF ADMINISTRATIVE HEARINGS CASE NO. 1280-2019:

ASHLEY UNDERHILL,	)	
	)	
Charging Party,	)	
	)	
vs.	)	<b>ORDER DISMISSING</b>
	)	<b>WITH PREJUDICE</b>
JM AND JM ENTERPRISES, LLC, D/B/A	)	
GILLY'S GAS AND GROCERY,	)	
	)	
Respondent.	)	

\* \* \* \* \*

On August 30, 2019, the Hearing Officer issued Notice of Intent to Dismiss Due to Charging Party's Failure to Prosecute her Claim. The order outlined the efforts made by Office Administrative Hearings (OAH) staff to contact Underhill and her failure to maintain contact with OAH or to comply with the orders of the Hearing Officer. The parties were given until October 31, 2019 to file and serve an objection to the dismissal. The Montana Human Rights Bureau (HRB) was also given the opportunity to file and serve a motion to intervene or to redesignate the charges by that date. OAH staff mailed the notice to the addresses of record.

On September 12, 2019, OAH received notice that Underhill's mailing was returned as undeliverable. OAH staff had previously sent an email to Underhill on August 15, 2019 requesting she update her mailing address after the Amended Order Setting Contested Case Hearing Date and Prehearing Schedule (Amended Order) issued on July 18, 2019 was returned as undeliverable. OAH staff mailed the Amended Order to Underhill at the address she had provided during a telephone conference held earlier that day, which had been held due to her failure to comply with the original Order Setting Contested Case Hearing Date and Prehearing Schedule that was issued on April 10, 2019.

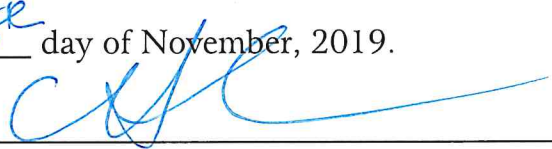
On September 27, 2019, HRB notified OAH of its intent to not intervene and stating no objection to the dismissal of Underhill's complaint.

To date, Underhill has had no contact with OAH. Underhill's failure to abide by the orders of the Hearing Officer, as well as her failure to file any response to Respondent's Motion to Dismiss filed on July 1, 2019 and renewed on August 13, 2019, makes the dismissal of her complaint proper in this case.

**IT IS THEREFORE ORDERED** that the complaint of Ashley Underhill is hereby **DISMISSED with prejudice**.

Any extant protective orders and/or orders sealing documents and evidence remain in full force and effect until such times as a tribunal with jurisdiction shall vacate or modify the orders.

DATED: this 5<sup>th</sup> day of November, 2019.



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Caroline A. Holien, Hearing Officer  
Office of Administrative Hearings  
Montana Department of Labor and Industry

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### CERTIFICATE OF MAILING

The undersigned hereby certifies that true and correct copies of the foregoing document were, this day, served upon the parties or their attorneys of record by depositing them in the U.S. Mail, postage prepaid, and addressed as follows, as well as by email to the indicated email addresses:

ASHLEY UNDERHILL  
1214 SOUTH 5<sup>TH</sup> ST WEST APT C  
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DAVID B COTNER  
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The undersigned hereby certifies that true and correct copies of the foregoing document were, this day, served upon the parties or their attorneys of record by means of the State of Montana's Interdepartmental electronic mail service.

MARIEKE BECK, BUREAU CHIEF  
HUMAN RIGHTS BUREAU

TIMOTHY LITTLE, ATTORNEY  
HUMAN RIGHTS BUREAU

DATED this 5<sup>th</sup> day of November, 2019.

  
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Legal Secretary

